

CALIFORNIA COASTAL COMMISSION

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W16a

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STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE DETERMINATION AND DE NOVO HEARING

LOCAL GOVERNMENT: City of Pismo Beach
LOCAL DECISION: Approved with conditions, 02/18/97
APPEAL NUMBER: A-3-PSB-97-015
APPLICANT: ROBERT AND JUDITH CONROY
APPELLANT: Surfrider Foundation, Chairman Areias and Commissioner Wan
PROJECT LOCATION: 113 Indio Drive, City of Pismo Beach, County of San Luis Obispo,
APN: 010-205-004
PROJECT DESCRIPTION: Proposal to construct a concrete vertical seawall and erosion
protection system with geogrid and helical anchors.
SUBSTANTIVE FILE DOCUMENTS: Pismo Beach Certified Local Coastal Program, Mitigated
Negative Declaration for City project 96-135

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed for the reasons discussed below. Staff further recommends that the Commission then proceed immediately to a de novo hearing on the merits of the project and approve the proposal with special conditions.

SUMMARY EVALUATION OF SUBSTANTIAL ISSUE

ISSUE	COASTAL ACT & LAND USE PLAN POLICIES	ZONING ORDINANCE	CONSISTENCY
Lateral Access	Coastal Act Section 30211; LCP Policy PR-22, Lateral Beach/Shoreline Access Required; S-6, Shoreline Protective Devices	17.066.020, Coastal Access criteria and Standards; 17.078.060, Shoreline Protection Criteria and Standards	Consistent with respect to access dedication. Lateral access dedication along the beach was required as part of the City approval. Inconsistent with respect to <u>physical</u> access. Location of wall as proposed would block lateral access at higher tides.
Alternatives to approved proposal	S-6, Shoreline Protective Devices	17.078.060, Shoreline Protection Criteria and Standards	Inconsistent. Possibility of other less environmentally damaging alternative such as moving the wall closer to the bluff.
Natural Landforms and Sand Supply	S-6, Shoreline Protective Devices	17.078.060, Shoreline Protection Criteria and Standards	Inconsistent. While wall generally follows bluff line, it extends as much as eight feet out from the bluff.
Color of Wall	S-6, Shoreline Protective Devices	17.078.060, Shoreline Protection Criteria and Standards;	Inconsistent. City approval did not clearly require the wall to be tinted to match existing bluff colors.

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1. Appeals
 2. City Council Resolution, Findings, and Conditions
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I. SUMMARY OF APPELLANTS' CONTENTIONS (See Exhibit 1 for the full texts)

Appellant Surfrider Foundation contends that the City violated the LCP in the following ways:

1. The seawall will impede public lateral access because it will project out eight feet from the bluff onto the beach.
2. The seawall is inconsistent with natural landforms.
3. There are other less environmentally damaging alternatives.
4. Sand supply will be adversely affected.
5. Right angle returns at end of seawall will exacerbate erosion.
6. The color of the wall needs to be addressed.
7. The wall will give the owner additional land area.

Appellants Commission Chairman Areais and Commissioner Wan contend that the City violated the LCP in the following ways:

1. The wall as proposed does not conform to the public access policies of Chapter 3 of the Coastal Act.
2. The wall as proposed does not conform to LCP policy S-6, Shoreline Protective Devices and Zoning Ordinance section 17.078.060, Shoreline Protection Criteria in that it reduces lateral access and is not necessarily the least environmentally damaging alternative.

II. LOCAL GOVERNMENT ACTION

On November 25, 1996, the City Planning Commission approved a coastal development permit, architectural review permit, and a mitigated negative declaration for the proposed seawall. That action was appealed to the City Council by the Surfrider Foundation and Fred Schott, the applicant's representative, on December 7 and December 10, 1996. Appellant Surfrider Foundation set forth the same contentions to the City as are set forth in the Surfrider appeal before the Coastal Commission. Appellant Schott set forth to the City the contention that the prohibition on repairing or replacing the existing stairway down the bluff face was inconsistent with the LCP because the stairway was not to be used to get to the beach but only to get to the proposed seawall for maintenance. On February 18, 1997, the City Council

denied both appeals and upheld the action of the Planning Commission. Please see Exhibit 2 for the complete text of the resolution and the City's findings and conditions.

III. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea. Furthermore, developments approved by counties may be appealed if they are not the designated "principal permitted use" under the certified LCP. Finally developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by a city or county (Coastal Act Section 30603(a)).

For projects not located between the sea and the first public road paralleling the sea, the grounds for an appeal shall be limited to an allegation that the development does not conform to the certified LCP (Coastal Act Section 30603(b)(1)). Because this project is appealed on the basis of its location between the sea and the first public road paralleling the sea, the grounds for an appeal to the Coastal Commission include not only the allegation that the development does not conform to the standards set forth in the certified local coastal program but also the allegation that the development does not conform to the public access policies of the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue," the substantial issue question will be considered moot unless 3 or more Commissioners object. If there is no objection, the Commission will proceed directly to a de novo public hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding

substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE AND COASTAL DEVELOPMENT PERMIT

- A. **Staff recommendation on Substantial Issue:** Staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, because the City has approved the project in a manner that is inconsistent with the certified Local Coastal Program and with the Chapter 3 public access policies of the Coastal Act.

MOTION. Staff recommends a NO vote on the following motion:

I move that the Commission determine that Appeal No. A-3-PSB-97-015 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

Staff recommends a NO vote which would result in a finding of substantial issue and bring the project under the jurisdiction of the Commission for hearing and action. To pass the motion, a majority of the Commissioners present is required.

- B. **Staff recommendation on Coastal Development Permit:** Staff recommends that the Commission adopt the following resolution:

Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the certified Local Coastal Program of the City of Pismo Beach, will be consistent with the public access and recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act

V. RECOMMENDED CONDITIONS

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. Revised Plans

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval, two sets of revised plans prepared by a licensed engineer indicating the following:

- a. The seawall shall be moved landward as far as possible but in no case less than 1.5 feet from its City-approved location.
- b. The face of the seawall shall extend no farther seaward than necessary to accommodate the minimum required seawall thickness.
- c. The location of access to the construction site and construction staging areas.
- d. The means of run-off disposal from the roof, driveways, patios and all other impervious surfaces on the subject site.
- e. The type, size, extent, and location, of all plant materials, proposed irrigation system, if any, and other landscape features. Drought and salt tolerant, native or naturalizing plant materials, consistent with the bluff vegetation indigenous to the area shall be utilized to the maximum extent feasible.
- f. The color that the concrete is proposed to be tinted.

2. State Lands Commission Review

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a letter from the State Lands Commission that concludes that:

- a. No state Lands are involved in the development; or
- b. State lands are involved in the development, and all permits required by the State Lands Commission have been obtained; or

- c. State lands may be involved in the development, but pending a full determination of state lands involvement, an agreement has been made by the applicant with the State Lands Commission for the project to proceed without prejudice to the determination.

3. **Run-off**

All run-off shall be collected and directed away from the edge of the bluff towards the street. If it is not possible to direct run-off towards the street the applicant shall indicate how run-off will be disposed of in a manner that does not contribute to bluff erosion.

4. **Landscaping**

All planting shall be completed within 30 days of completion of construction. By acceptance of this permit, the applicant agrees to maintain all plantings in good growing condition, and, whenever necessary, to replace them with new plant materials to ensure continued compliance with applicable landscape erosion control requirements. The applicant also acknowledges that the requirements of this condition are enforceable throughout the life of the project.

5. **Construction Materials, Concrete Pours, and Construction Responsibilities and Debris Removal**

During construction of the approved development, disturbance to sand and intertidal areas shall be minimized to the maximum extent feasible. All excavated beach sand shall be redeposited on the beach. Local sand, cobbles or shoreline rocks shall not be used for backfill or for any other purpose as construction material.

Permittee shall ensure that the concrete trucks and tools used for construction of the approved development are rinsed regularly in a separate wash-out area. The wash-out area shall be designed and located to reduce to the maximum extent feasible the potential for concrete slurry or contaminated water to runoff into adjacent waters of the Pacific Ocean.

Permittee shall not store any construction materials or waste where it will be or could potentially be subject to wave erosion and dispersion. In addition, no machinery shall be placed, stored, or otherwise located in the intertidal zone at any time. Within 5 days of completion of construction, the permittee shall remove from the bluff face and beach area any and all debris that results from construction of the approved development.

6. **Seawall Color**

PRIOR TO CONSTRUCTION, the applicant shall submit a color chip or other information which clearly indicates what the color of the wall will be.

7. City Conditions

All City conditions that are consistent with this Coastal Commission approval are incorporated into this approval.

VI. RECOMMENDED FINDINGS AND DECLARATIONS

A. Project Description

This is a proposal for the construction of a concrete seawall approximately 110 feet long and 11 feet tall. The plans show the face of the wall extending out from the toe of the bluff from as little as two feet to as much as eight feet. The plans show a wave deflector incorporated into the design at the top of the wall. The deflector would comprise the upper two feet of the wall, and therefore would be about nine feet above the surface of the beach, and would project about one and one-half feet out from the top of the face of the wall. The plans indicate that the front of the footing, normally covered by sand, would project out from the face of the wall about two and one-half feet.

The wall is proposed to protect the existing house from continuing bluff erosion. The house sits about 25 feet from the edge of the bluff top at an elevation of about 35 feet above sea level and about 30 feet above the beach at the toe of the bluff. According to the geologist's report, the terrace material comprising the upper part of the bluff is stable as is the rock supporting the terrace material. However, several sea caves are being actively eroded into the base of the rock which will ultimately result in bluff failure. The sea caves range from three to eight feet tall and have eroded back about four feet from the toe of the bluff.

B. Substantial Issue Determination and De Novo Findings

1. Access and Alternative Design

a. Appellants' Contention: The appellants contend that the seawall as proposed will reduce public lateral access because the wall will extend up to eight feet onto the beach from the bluff and that the proposed wall is not necessarily the least environmentally damaging feasible alternative.

b. Local Government Action: On February 18, 1997 the City Council found that the proposal was consistent with the public access and public recreation policies of Chapter 3 of the Coastal Act. Council also found that *The seawall will not impede onto the public beach access, since the beach area adjacent to this property is not designated a public beach in the City's Local Coastal Plan (LCP).* Council also found *That the project is the least environmentally damaging as noted by the city's independent geologist. . . .*

c. **Applicable Policies: Coastal Act Section 30211:** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section 30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to. . . protect existing structures. . .in danger from erosion. . . .

LUP Policy S-6, Shoreline Protective Devices. Shoreline protective devices, such as seawalls. . .shall be permitted only when necessary to protect existing principal structures. . .in danger of erosion. If no feasible alternative is available, shoreline protection structures shall be designed and constructed in conformance with Section 30235 of the Coastal Act and all other policies and standards of the City's Local Coastal Program. Devices must be designed to eliminate or mitigate adverse impacts on local shoreline sand supply, and to maintain public access to and along the shoreline. Design and construction of protective devices shall minimize alteration of natural landforms, and shall be constructed to minimize visual impacts.

LUP Policy PR-22. Lateral Beach/Shoreline Access Required. Coastal Beach Access Dedication - For all developments on parcels located along the shoreline, a lateral public access easement in perpetuity extending from the oceanside parcel boundary to the top of the bluff shall be required for the purpose of allowing public use and enjoyment of dry sandy and rocky beaches, intertidal and subtidal areas. Such easements shall be granted to the California Department of Parks and Recreation, the City of Pismo Beach, or other appropriate public agency.

Zoning Ordinance section 17.078.060(4), Shoreline Protection Criteria and Standards. Seawalls shall not be permitted, unless the city has determined that there are no other less environmentally damaging alternatives for protection of existing development or coastal dependent uses. If permitted, seawall design must (b) provide for lateral beach access.

d. **Analysis:** In the late 1950's and early 1960's, this area was subdivided. It was then not part of the City of Pismo Beach but rather was in unincorporated San Luis Obispo County. The Assessor's Parcel Maps for this area indicate that at that time when the area was subdivided, a dedication of a lateral easement was made to the County. Research has not produced any actual record of such an easement. It is unknown if such an easement was ever accepted. However, the City in this instance required an offer of dedication of the applicant to provide for public lateral access. That action was consistent with the Coastal Act as well as LUP policy S-6 and Zoning Ordinance Section 17.078.060(4)(b). The *right* of the public to traverse the beach will be preserved by that action. Therefore, there is no substantial issue regarding dedication of public lateral beach access.

Currently, there is no established vertical access at the site although it is possible, but not advisable, to climb down the bluff in the vicinity of the site. The closest established vertical access is about one-half mile downcoast; a development has been approved within 1000 feet downcoast of the Conroy site that will provide even closer vertical access. There is physically no area on the Conroy lot for vertical access. The beach is generally physically passable from the existing vertical access point to and beyond the subject site; the beach ends about one-tenth of a mile upcoast where the bluffs project into the surf zone.

The rationale for the City's finding that the seawall would not interfere with public access was that the beach is not designated a public beach in the City's LCP. In the City staff report, reference was made to LCP Figure PR-2 which *identifies beach paths in all areas of the City*. Please see Exhibit 3. While figure PR-2 does indeed show beach paths, there is nothing in the figure itself or in the relevant text that indicates that only those beaches with designated beach paths are public beaches. In fact, all land seaward of the mean high tide line is public land whether or not it is so designated on LCP maps.

The right of the public to traverse the beach at the base of the bluff does not necessarily guarantee that the public can *physically* traverse the beach. Access to the beach in front of the subject site is from vertical access downcoast. When the tide is high, lateral access along the beach in front of the Conroy parcel is difficult at best. At low tide, the beach is entirely passable. The proposed wall as approved by the City would project out from the base of the bluff as much as eight feet. According to the preliminary plans for the proposal, the seawall would be above -- inland of -- the mean high tide line by as little as four to five feet. At this location at higher tides, passage along the beach would be blocked by the seawall if it is located as proposed. Additionally, over time the sand in front of the seawall would be eroded leaving little if any beach between the wall and the ocean, even at low tides. The City's approval of the wall in the location proposed is not consistent with Coastal Act section 30211, LCP policy S-6, and Zoning Ordinance section 17.078.060(4)(b). Therefore a substantial issue exists regarding the proposed seawall location and its effect on existing public lateral access.

e. Coastal Commission Coastal Permit Approval With Conditions: Since there is an existing structure which, according to the reports of the project engineering geologist and the City's consulting engineering geologist, is endangered by continuing bluff erosion, some sort of shoreline protective device must be allowed as required by Coastal Act section 30235. One alternative would be to move the house back on the lot away from the bluff toward the local street, Indio Drive. The house sits about 15 feet from Indio Drive. If the house were moved away from the bluff by that amount it would then be about forty feet back from the bluff and presumably there would be no need for the seawall at this time. However, work to move the house might also destabilize the bluff and the cost of moving the house and relocating utilities would make this alternative infeasible.

A second alternative is to place a rock revetment against the bluff. A revetment of the same height as the proposed seawall, approximately 11 feet, could extend out from the bluff by as much as 22 feet, depending on its slope. Clearly, that would interfere with public lateral access to a great degree. In any event, a rock revetment is not feasible since there is no access for a crane to place the rock.

A third alternative is to place a shorter wall flush with the rock at the lower part of the bluff and to place another wall just above and in from the lower wall. Having the lower wall flush with the rock at the toe of the bluff would interfere less with public lateral access along the beach. However, the stability of bluff would likely be compromised during excavation for footings of each wall, resulting in partial or total bluff failure.

A fourth alternative is to move the wall back toward the bluff, so that less beach is covered by the wall. The least amount of beach would be covered if the wall were moved back to be flush with the bluff. The Commission's engineer has reviewed the plans for the proposed wall and discussed with the project engineer the possibility of moving the wall to be flush with the bluff. This would necessitate either excavating under the base of the bluff to create space for the heel of the wall or reducing or eliminating the heel and using anchors to stabilize the wall. According to the project engineer,

a detailed review of the toe of the rock and supplemental calculations indicate that we could probably move the wall a maximum of 1.5 feet closer to the bluff face. . . Although this change would result in a heel dimension less than is normally considered to be good engineering practice we feel that an acceptable factor of safety against sliding and overturning could be achieved with the modifications noted above.

Excavating under the base of the bluff to create space for the heel would likely destabilize the bluff and completely eliminating the heel and using only anchors to hold the wall in place is not feasible. The rock into which the anchors would be placed is not competent to hold the anchors sufficiently to resist the sliding and overturning force of the bluff against the wall. The Commission's engineer agreed that, given these factors, the feasibility of moving this wall bluff-ward more than what the project engineer estimated is very low.

As mentioned above, if the wall is located as approved by the City, lateral public access would be blocked at higher tides. Moving the wall back no less than one and one-half feet will only slightly add to the time that the beach will be passable during higher tides. However, for the reasons given above there is no feasible alternative to this-relatively small movement bluff-ward. Based on the foregoing, staff has developed Special Condition number 1 which requires the applicant to submit revised plans showing the wall moved back landward as far as possible but no less than 1.5 feet from its location as approved by the City.

Typically, what occurs with seawalls is that the beach in front of the seawall erodes resulting, at some time in the future, in there being no beach in front of the wall. Essentially the seawall would become a small headland projecting out into the ocean. At that time, there will be no physical public lateral access along the front of the wall. Given this situation, it is often appropriate to require the homeowner to maintain the beach in front of the seawall by adding sand to the beach periodically (beach nourishment), pay an in-lieu fee, or perhaps design lateral public access into the wall by adding stairs to each end of the wall.

There is no practical way for the homeowner to place sand directly on the beach and there is no City in-lieu fund for beach nourishment. While beach nourishment has been required in some areas, notably in San Diego County, it is not effective on an individual lot basis. An amount of sand equal to that lost by beach erosion, if placed up coast or in front of the proposed wall here would quickly be washed away by the ocean. Beach nourishment is effective when there are many contiguous properties involved but it is not effective for an individual lot with only 100 feet of beach frontage.

Designing lateral access into the wall would be possible by constructing stairs at either end of the wall and providing a path along the top. However, to be effective in providing physical lateral access, stairs and/or wall-top paths would have to be added to the existing seawalls up-

and down-coast and of course required on all future walls. Because of costs and technical difficulties of connecting with the existing seawalls, this is infeasible.

Therefore, because the only feasible alternative is to move the wall no less than one and one-half feet landward, because there is no feasible way to maintain the beach in front of the wall, and because designing lateral access into the wall is not feasible, the Commission finds that, as conditioned, the proposed seawall is consistent with Coastal Act section 30211, regarding public access.

2. Natural Landforms and Sand Supply

a. Appellants' Contention: The appellants contend that the proposed seawall does not respect natural landforms because it projects so far out from the bluff onto the beach. Appellant Surfrider also contends that the homeowner will get the benefit of additional land from the proposal.

b. Local Government Action: On February 18, 1997 the City Council found *That the seawall respects to the degree practical natural land forms and is the most feasible option to address the potential loss of the blufftop and endangerment to the existing residence and That sand supply will not be impacted. This determination is based on an April 1996 geology report prepared by geologist R.T. Wooley who notes that the proposed construction . . . "will not impede the long-shore transport of sand along the beach, and will reduce or stop erosion of the bluff face."*

c. Applicable Policies: *Coastal Act Section 30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to . . . protect existing structures. . .in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.*

LUP Policy S-6, Shoreline Protective Devices. *Shoreline protective devices, such as seawalls. . .shall be permitted only when necessary to protect existing principal structures. . .in danger of erosion. If no feasible alternative is available, shoreline protection structures shall be designed and constructed in conformance with Section 30235 of the Coastal Act and all other policies and standards of the City's Local Coastal Program. Devices must be designed to eliminate or mitigate adverse impacts on local shoreline sand supply. . . Design and construction of protective devices shall minimize alteration of natural landforms. . . .*

Zoning Ordinance section 17.078.060(4), Shoreline Protection Criteria and Standards. *Seawalls shall not be permitted, unless the city has determined that there are no other less environmentally damaging alternatives for protection of existing development or coastal dependent uses. If permitted, seawall design must (a) respect natural landforms.*

d. Analysis: Seawalls can displace wave energy to either side of the ends of the wall and result in increased erosion of the landforms at either or both ends. Here, the recommendation of the engineering geologist is to tie the proposed wall into the concrete and rock surface adjacent to the downcoast side of the site. At the opposite of the wall, the proposal is to make a 90 degree turn in the wall and anchor it in the existing rock to prevent "run around" erosion. The City's consulting engineering geologist stated that

As a result, the adjacent bluff areas may experience accelerated erosion due to sea waves deflecting off the ends of the sea wall. The geologist should evaluate the erosional impact that concentration of wave energy at the ends of the sea wall will have on the adjacent bluff areas. Alternatively, a revised design for the ends of the sea wall, that will minimize energy concentration, should be developed.

In response, the project engineering geologist stated that

Wall construction will require that the marine engineer design the abutments with the greatest attention possible to prevention of "run-around erosion." If a stable tie-in to walls on each side of the lot cannot be done, then a ninety degree turn of the wall into the bedrock should be the minimum protection to reduce erosion.

Since there is no wall nor any other structure into which to tie the proposed wall, the 90 degree turn into the rock appears to be an acceptable method of reducing erosion on the upcoast side of the lot. Because of this no substantial issue exists with respect to the contention that the 90 degree turn in the wall into the bluff will exacerbate erosion there.

Additional land will be added to the homeowner's property in that there will be backfilling behind the wall which will be sloped from just behind the top of the wall to the top of the bluff. There is no Coastal Act policy or LCP regulation that addresses this issue. The only way to eliminate this "additional" land would be either to install a rock revetment or to construct a wall that was as tall as the bluff and that had the same slope as the existing bluff. Each of these is undesirable from an esthetic point of view. As discussed on page 11, installation of a revetment is not feasible since there is no access for a crane. A wall as tall as the bluff and with the same slope may be infeasible at this location for the protection of a residence on a 100 foot wide lot. Therefore, no substantial issue is raised by the contention that the homeowner is getting additional land.

Shoreline protective devices can impede sand supply in two ways. First, they obviously greatly slow the amount of material that is eroded from the bluffs, some of which may become beach sand. A second way these protective devices can impede sand supply is by interfering with the transport of sand along the shore. This is most pronounced in the case of groins which extend well out into the surf zone. Over time sand accumulations become very large on the side of the groin which blocks the passage of sand. According to the project engineering geologist, *The proposed construction will not impede the long-shore transport of sand along the beach, . . .* While the project engineering geologist offers no reason why the proposed wall would not interfere with long shore transport of sand, a likely reason is that such movement would be expected to occur farther out in the surf zone rather than in an area of the beach reached only by higher tides. Therefore, the City's approval is consistent with Zoning Ordinance section 17.078.060(4) regarding sand supply and sand transport.

As proposed on the preliminary plans, the seawall would extend out onto the beach by as much as eight feet from the toe of the bluff. The wall would generally follow the bluff line. That is, where the bluff is farther seaward, the wall would be farther seaward; where the bluff is more landward, the wall would be more landward. However, the extent to which the wall would encroach on the beach is not consistent with natural landforms in that the landform is not any sort of small headland or projection out onto the beach, but rather describes a gentle concave shape. Over time, the beach in front of the seawall will erode, leaving the wall as a small headland while on

other properties not protected from bluff erosion or protected at a later date, the bluff will have retreated landward. Therefore the City's approval is inconsistent with Zoning Ordinance section 17.078.060(4)(a) regarding natural landforms.

e. **Coastal Commission Coastal Permit Approval With Conditions:** Typically, what occurs with seawalls is that the beach in front of the seawall erodes resulting, at some time in the future, in there being no beach in front of the wall. Essentially the seawall would become a small headland projecting out into the ocean. Given this situation, it is often appropriate to require the homeowner to maintain the beach in front of the seawall by adding sand to the beach periodically (beach nourishment) or pay an in-lieu fee.

There is no practical way for the homeowner to place sand directly on the beach and there is no City in-lieu fund for beach nourishment. While beach nourishment has been required in some areas, notably in San Diego County, it is not effective on an individual lot basis. An amount of sand equal to that lost by beach erosion, if placed up coast or in front of the proposed wall here would quickly be washed away by the ocean. Beach nourishment is effective when there are many contiguous properties involved but it is not effective for an individual lot with only 100 feet of beach frontage.

Since the erosion of the bluff will be greatly reduced if not eliminated by the seawall, there is the possibility of some loss of sand supply. The percentage of sand in the bluff material and therefore the number of cubic yards of sand that might result from continuing erosion of the bluff is unknown. Even if it were known, as discussed above, replacement of that sand by beach nourishment is not feasible and there is no in-lieu fee fund for City-wide beach nourishment.

Therefore, the Commission finds that the proposed seawall, as conditioned herein, respects the natural landform and maintains the beach to the degree feasible, there are no feasible mitigation measures for possible sand supply loss, and the wall will have no adverse impact on sand transport since it does not project out far enough to trap sediment carried by long-shore processes.

3. Visual Resources

a. **Appellants' Contention:** The appellants contend that the issue of color has never been acted upon and no color chart has ever been presented showing the color.

b. **Local Government Action:** On February 18, 1997, the City Council found *That the Planning Commission requirement for tinted concrete makes the seawall structure more compatible with the existing natural landform.* On November 26, 1996 the Planning Commission found that *The size, color and amount of materials for the seawall and erosion protection system, as conditioned, are visually compatible with the existing sea bluff, soil & rock terrace and intertidal rocky and sandy shoreline.* The Planning Commission also required condition A)13 which states that *The concrete shall be tinted to closely match the colors of the existing bluffs.*

c. **Applicable Policies:** *LUP Policy S-6, Shoreline Protective Devices. Shoreline protective devices, such as seawalls. . .shall be permitted only when necessary to protect existing*

*principal structures. . .in danger of erosion. . .Design and construction of protective devices shall. .
.be constructed to minimize visual impacts.*

Zoning Ordinance section 17.078.060(4), Shoreline Protection Criteria and Standards.
*Seawalls shall not be permitted, unless the city has determined that there are no other less
environmentally damaging alternatives for protection of existing development or coastal dependent
uses. If permitted, seawall design must (c)use visually compatible colors and materials. . . .*

d. **Analysis:** The City's consulting engineering geologist noted that, *From a visual
standpoint, tinting the concrete for the seawall will make it more compatible with the existing
natural landform.* The Planning Commission approval included condition A)13 which states *The
concrete shall be tinted to closely match the colors of the existing bluffs.* The City Council, on
appeal, upheld the Planning Commission's decision to approve the project, although the specific
conditions applied by Council did not include a condition requiring coloring of the wall to match
existing landforms. **Therefore, the City's approval was inconsistent with LUP policy S-6 and
with Zoning Ordinance section 17.078.060(4), regarding to visual resources**

e. **Coastal Commission Coastal Permit Approval With Conditions**

The proposed wall can only be found to be consistent with the policies regarding visual
resources if it is colored to match the surrounding bluffs. Therefore, Special Condition 6 is
necessary and with that condition the proposed wall is consistent with LUP policy S-6 and
Zoning Ordinance section 17.078.060(4).

VII. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in
conjunction with coastal development permit applications showing the application to be
consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(i) of CEQA
prohibits a proposed development from being approved if there are feasible alternatives or
feasible mitigation measures available which would substantially lessen any significant adverse
impact which the activity may have on the environment. The Coastal Commission's review and
analysis of land use proposals has been certified by the Secretary for Resources as being the
functional equivalent of environmental review under CEQA. This report has examined a
variety of issues in connection with the environmental impacts of this proposal. The
Commission finds that only as modified and conditioned by this permit will the proposed project
not have any significant adverse impacts on the environment within the meaning of CEQA.

CALIFORNIA COASTAL COMMISSION


CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

HEARING IMPAIRED: (415) 904-5200

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT
RECEIVED
MAR 4 1997Please Review Attached Appeal Information Sheet Prior To Completing
This Form.CALIFORNIA
COASTAL COMMISSIONSECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

SURFIDER FOUNDATION - SAN LUIS BAY CHAPTER531 PARK AVE. #2PISMO BEACH, CA. 93449

(805)

773-9406

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed1. Name of local/port
government: THE CITY OF PISMO BEACH2. Brief description of development being
appealed: CONSTRUCTION OF A SEAWALL AND
EROSION PROTECTION SYSTEM3. Development's location (street address, assessor's parcel
no., cross street, etc.): 113 INDIO DRIVE APM. 010-205-004

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. ☒ Approval with special conditions: X

c. Denial: _____

Note: For jurisdictions with a total LCP, denial
decisions by a local government cannot be appealed unless
the development is a major energy or public works project.
Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: A-3-PSB-97-015DATE FILED: 3/5/97DISTRICT: Central Coast

HS: 4/88

Ex 1

A-3-PSB-97-015

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
b. X City Council/Board of Supervisors d. Other

6. Date of local government's decision: FEB. 18, 1997

7. Local government's file number (if any): PROJECT NO. 96-135

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

ROBERT & JUDITH CONROY
113 INDIO DRIVE
PISMO BEACH, CA. 93449

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) FRED H. SCHOTT
200 SUBURBAN ROAD SUITE A
SAN LUIS OBISPO, CALIF. 93401
- (2) _____

- (3) _____

- (4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and regulations.

Ex-1
p2

A-3-P58-97-015

(3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

① THIS SEAWALL WILL IMPEDE ONTO THE PUBLIC'S BEACH BY STICKING OUT AT LEAST 8'; THERE BY LIMITING LATERAL PUBLIC BEACH ACCESS TO THIS HISTORICAL USED PUBLIC BEACH.

② THIS SEAWALL IS INCONSISTENT WITH RESPECT TO NATURAL LANDFORMS BY BEING SO FAR OUT ONTO THE PUBLIC'S BEACH. THIS PROJECTS STATED PURPOSE IS TO PROTECT THE CONCRETE
(CONT.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Bruce S. McFarlen
Signature of Appellant(s) or
Authorized Agent

Date March, 4, 1997

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize SURPRIDER FOUNDATION SAN LUIS BAY as my/our CHAPTER representative and to bind me/us in all matters concerning this appeal.

Bruce S. McFarlen
Signature of Appellant(s)

Date March, 4, 1997

Ex 1
p 3

A-3-PSB-97-015

CCC, APPEAL CONT.
OF CONROY SEAWALL
IN PISMO BEACH

PATIO AND SOME PLANTERS, FIRST PAGE OF
R.T. WOOLEY'S PRELIMINARY GEOLOGIC REPORT 1996
UNDER TOPOGRAPHY AND GEOLOGY. THIS PATIO
IS NOT THE PRIMARY STRUCTURE, THE HOUSE
IS AND IN THE SAME REPORT UNDER THE
SAME HEADING IT STATES THAT THE HOUSE
FOUNDATION IS SET BACK "23 FEET" ON ONE
CORNER AND "40 PLUS FEET FROM THE BLUFF
TOP EDGE" ON THE OTHER CORNER. THERE
IS NOTHING LIKE IT ON THE BEACH IN THAT
AREA, THERE ARE NO EXISTING NATURAL
LANDFORMS 6 TO 8 FOOT OUT THERE ON THAT
BEACH AND FOR THAT MATTER NO MAN
MADE ONE'S EITHER. THE OTHER SEAWALLS
ARE SET UPON THE BEDROCK TOE WHERE THIS
ONE SHOULD BE. ③ OTHER LESS ENVIRON-
MENTALLY DAMAGING ALTERNATIVES AS
REQUIRED BY THE COASTAL ACT HAVE NOT
BEEN LOOKED AT LIKE PLACING IT ON THE
BED ROCK LEDGE. ④ BY NOT USING THE LEDGE
TYPE SEAWALL AND STICKING THIS ONE
SO FAR (6 TO 8 FOOT) ON TO THE BEACH YOU
WILL AFFECT THE SAND SUPPLY OF WHICH
NO REAL STUDY WAS DONE, PLUS ⑤ AS
WAS POINTED OUT IN THE SECOND GEOLOGY
REPORT BY EARTH SYSTEMS, OCT 9, 1996 ON
PAGE 84 IT IS STATED THAT THE 90°
RETURNS ON THE ENDS OF THE SEAWALLS.

Ex1, p4

A-3-PSB-97-015

(OVER)

WILL GREATLY ADD TO THE EROSION PROBLEMS AT THE ADJACENT PROPERTIES. THE PERMIT APPLICANT NOR THEIR ENGINEER HAVE ADDRESSED THIS PROBLEM ON THE NORTHERN EDGE WHERE THE SEAWALL WILL BE 8 FEET ONTO THE BEACH WITH A 90° RETURN. (6) THE COLOR ISSUE HAS NEVER REALLY ACTED UPON, THERE NEVER BEEN COLOR CHART PRESENTED AT ANY LEVEL FROM THE ARCHITECTURAL REVIEW PERMIT, THROUGH THE PLANNING COMMISSION MEETINGS TO OUR APPEAL TO THE PISMO BEACH CITY COUNCIL. (7) IT'S OUR CONCERN AT THE SURFIDER FOUNDATION SAN LUIS BAY CHAPTER THAT THIS PROJECT IS A DANGEROUS FIRST AND WILL START A PRECEDENCE IN THAT AREA FOR EVERYBODY TO ASK FOR AS MUCH BEACH AS THEY CAN GET. REMEMBER THAT AREA BY WAY OF THE CITY'S OWN EROSION STUDY BY EARTH SYSTEMS IN 1994 FOUND AN EROSION RATE OF BETWEEN 2 TO 3 INCHS A YEAR. NOW IF THAT SEAWALL GOES IN 6 TO 8 FOOT POSSIBLY MORE ACCORDING TO CONSTRUCTION DIFFICULTIES AND BED ROCK PLACEMENT FURTHER DOWN INTO THE SAND BEING FURTHER OUT FROM THE BLUFF TOE, THE PERMIT APPLICANT WILL RECEIVE 92 YEARS OF LAND BACK AT THE FASTEST.

(6)

3 INCH A YEAR EROSION RATE! AT THE 2 INCH
EROSION RATE THEY WILL GET BACK 138
YEARS OF LAND BACK! LAND BACK BEFORE
THEY BOUGHT THEIR HOUSE, LAND BACK
BEFORE ANY HOUSES WERE THERE, AND WHERE
WILL THIS LAND COME FROM TO PROTECT THAT
CONCRETE PATIO AND PLANTERS FROM OUR
CALIF. AND PISMO BEACHS PUBLIC BEACH,
A PUBLIC BEACH WHERE A PUBLIC BEACH
ACCESS IS SLATED TO BE BUILT NOT
MORE THAN 100 PLUS YARDS OR SO BY
DEVELOPER FUNDS EAR-MARK FOR SUCH
A PROJECT FOR OVER 6 YEARS AND FOR
WHICH THE CITY OF PISMO BEACH IS NOW
BUYING THE BLUEE TOP LAND.

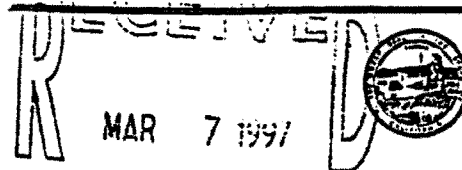
TO MITIGATE THIS TAKING OF PUBLIC
LATERAL BEACH ACCESS HOW ARE THEY,
THE APPLICANT OF THIS SEAWALL GOING TO:
ALLEVIATE, ALLEVEY, EASE, ABATE, MODERATE,
JUSTIFY OR PALLIATE THAT TRADE OFF
FOR THAT PATIO, WHAT ARE THEY GOING
TO GIVE THE CALIF PUBLIC FOR THAT
LAND GRAB OF WHICH THIS IS, IN
REALITY?

Ex1, p6

A-3-PSB-97-015

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
FRONT STREET, SUITE 300
PISMO BEACH, CA 95060
TEL: (415) 427-4863
FAX: (415) 904-5200



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Please review attached appeal information sheet prior to completing this form.

SECTION I. Appellant(s):

Name, mailing address and telephone number of appellant(s):

Sara Wan, Commissioner
California Coastal Commission
22350 Carbon Mesa Rd.
Malibu, CA 90265

(916) 443-0178

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: **City of Pismo Beach**

2. Brief description of development being appealed:

Construction of a seawall and erosion protection system with geogrid and helical anchors and replace existing stairway.

3. Development's location (street address, assessor's parcel number, cross street, etc.):

113 Indio Drive, Pismo Beach, San Luis Obispo County, APN 010-205-004

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
b. Approval with special conditions: X _____
c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-PSB-97-015
DATE FILED: 3/5/97
DISTRICT: Central Coast District

Ex 1, p 7

A-3-PSB-97-015

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

a. ___ Planning Director/Zoning
Administrator

c. ___ Planning Commission

b. X City Council/Board of
Supervisors

d. ___ Other: _____

6. Date of local government's decision: February 18, 1997

7. Local government's file number: 96-135

SECTION III Identification of Other Interested Persons

Give the names and addresses of the following parties: (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Robert and Judith Conroy, 113 Indio Drive, Pismo Beach, CA 93449

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearings (s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Fred Schott
200 Suburban Rd.
San Luis Obispo, CA 93401

(2) Bruce McFarlan
331 Park Avenue
Pismo Beach, CA 93449

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land use Plan, or Port Master Plan policies and requirements in which you believe

Ex 1, p 8

A-3-PSB-97-015

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

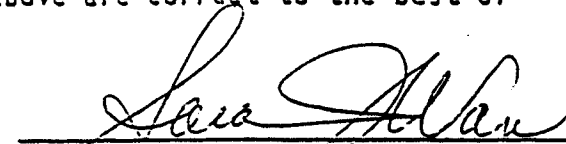
1. City action approving permit does not conform to the standards of public access policies of Chapter 3 of the Coastal Act of 1976, in that the proposed seawall extends up to eight feet from the bluff onto the narrow beach.

2. City action approving permit does not conform to Pismo Beach certified Local Coastal Program including Land Use Plan policy S-6, Shoreline Protective Devices, and zoning ordinance Section 17.078.060, Shoreline Protection Criteria and Standards, in that it reduces lateral beach access, and is not necessarily the least environmentally damaging alternative.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.


Signature of Appellant(s) or
Authorized Agent

Date March 7, 1997

NOTE: If signed by agent, appellant(s)
must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

Exl, p9

A-3-PSB-97-015

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
25 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please review attached appeal information sheet prior to completing this form.

RECEIVED
MAR 7 1997SECTION I. Appellant(s):

Name, mailing address and telephone number of appellant(s):
Rusty Areias, Chairman
California Coastal Commission
1400 "N" Street, Suite 9
Sacramento, CA 95814

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

(916) 443-0178

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed1. Name of local/port government: **City of Pismo Beach**

2. Brief description of development being appealed:

Construction of a seawall and erosion protection system with geogrid and helical anchors and replace existing stairway.

3. Development's location (street address, assessor's parcel number, cross street, etc.):

113 Indio Drive, Pismo Beach, San Luis Obispo County, APN 010-205-004

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: X _____

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-PSB-97-015DATE FILED: 5/5/97DISTRICT: Central Coast District

Ex 1, p 10

A-3-PSB-97-015

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

a. ___ Planning Director/Zoning
Administrator

c. ___ Planning Commission

b. X City Council/Board of
Supervisors

d. ___ Other: _____

6. Date of local government's decision: **February 18, 1997**

7. Local government's file number: **96-135**

SECTION III Identification of Other Interested Persons

Give the names and addresses of the following parties: (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Robert and Judith Conroy, 113 Indio Drive, Pismo Beach, CA 93449

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearings (s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) **Fred Schott
200 Suburban Rd.
San Luis Obispo, CA 93401**

(2) **Bruce McFarlan
331 Park Avenue
Pismo Beach, CA 93449**

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land use Plan, or Port Master Plan policies and requirements in which you believe

Ex 1, p 11

A-3-PSB-97-015

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

1. City action approving permit does not conform to the standards of the public access policies of Chapter 3 of the Coastal Act of 1976, in that the proposed seawall extends up to eight feet from the bluff onto the narrow beach.

2. City action approving permit does not conform to Pismo Beach certified Local Coastal Program including Land Use Plan policy S-6, Shoreline Protective Devices, and zoning ordinance Section 17.078.060, Shoreline Protection Criteria and Standards, in that it reduces lateral beach access, and is not necessarily the least environmentally damaging alternative.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my knowledge.

Signed [Signature]
Appellant or Agent

Date March 7, 1997

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed [Signature]
Appellant

Date _____

Ex1, p12

A-3-PSB-97-015

Exhibit 3
RESOLUTION NO. 97-_____

A RESOLUTION OF THE CITY COUNCIL 1) DENYING APPEALS FROM THE SURFRIDER FOUNDATION AND FRED SCHOTT OF A PLANNING COMMISSION DECISION TO APPROVE A NEGATIVE DECLARATION, A COASTAL DEVELOPMENT PERMIT AND ARCHITECTURAL REVIEW PERMIT FOR A BLUFF STABILIZATION SYSTEM AT 113 INDIO DRIVE, PROJECT NO. 96-135 AND 2) CITY COUNCIL DECISION TO UPHOLD PLANNING COMMISSION DECISION OF APPROVAL

WHEREAS, Robert and Judith Conroy (The Applicants) have submitted applications to the City of Pismo Beach for approval of a Coastal Development Permit and Architectural Review Permit; and

WHEREAS, On November 25, 1996 the Planning Commission held a public hearing and the Commission voted to approve the Coastal Development Permit and Architectural Review Permit and approve a Negative Declaration for the project; and

WHEREAS, On December 7 and December 10, 1996 the Surfrider Foundation, San Luis Bay Chapter and on December 10, 1996 Fred Schott, representative for the applicant, filed appeals of the Planning Commission decision with the City Clerk; and

WHEREAS, On February 18, 1997 the City Council held a public hearing, considering a staff report and comments from the public, the applicant and the appellants; and

WHEREAS, In considering this appeal, the City Council has considered all information submitted by the appellants together with the staff report and other comments, information and testimony from the public.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pismo Beach as follows:

SECTION 1:
FINDINGS AND DECISION:

A. THE CITY COUNCIL HEREBY FINDS:

- 1. That the seawall will not impede onto the public's beach access, since the beach area adjacent to this property is not designated a public beach in the City's Local Coastal Plan (LCP).**
- 2. That the seawall is respects to the degree practical natural land forms and is the most feasible option to address the potential loss of the blufftop and endangerment to the existing residence.**
- 3. That erosion on adjacent properties will be avoided with a condition of approval on the project requiring construction plans to show design of end wall tie-ins or 90 degree turns, to minimize erosion on adjacent properties. (Planning Commission Condition A2b)**
- 4. That sand supply will not be impacted. This determination is based on an April, 1996 geology report prepared by geologist R.T. Wooley who notes that the proposed construction . . . "will not impede the long-shore transport of sand along the beach, and will reduce or stop erosion of the bluff face."**

Ex2
A-3-PSB-97-015

7A-12

That the project is the least environmentally damaging as noted by the City's independent geologist, Rick Gorman who has stated that, "Based on present geologic conditions of the subject bluff, it is our opinion that the proposed sea wall structure is the minimum structure necessary to provide long-term bluff protection for the home," and "Due to the close proximity of mean high tide to the toe of the subject bluff, the proposed sea wall, in our opinion, is generally the most practical structure to protect the bluff from erosion and yet have the least amount of impact on the local coastal processes."

6. That the Planning Commission requirement for tinted concrete makes the seawall structure more compatible with the existing natural landform.
- 7) That the General Plan/Local Coastal Plan Policy LU-A-11 states that "If existing stairways are damaged or destroyed they shall not be repaired or replaced..." and the Planning Commission determination to delete the repair of the stairway on the proposed project is consistent with the GP/LCP.

B. THE CITY COUNCIL HEREBY DETERMINES:

1. To deny the two appeals of the Planning Commission decision to approve Project No. 96-164.
2. To uphold the Planning Commission decision to approve a Coastal Development Permit and an Architectural Review Permit and adoption of a Negative Declaration.
3. The City Council hereby requires that all permits as shown in Exhibit A be issued to the applicant with the amended date of issuance on the permit to February 18, 1997.

UPON THE MOTION of Councilmember _____, seconded by Councilmember _____, the foregoing resolution is hereby approved and adopted this 18th day of February 1997 by the following roll call vote to wit:

AYES : _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

John C. Brown, Mayor

ATTEST:

Sharon Jones, City Clerk

Ex2, p2

A-3-P5B-97-015

7A-13

**EXHIBIT A
CITY OF PISMO BEACH
PERMIT NO. 96-135 / CDP/ARP
CONDITIONS OF APPROVAL
CITY COUNCIL MEETING OF February 18, 1997**

The conditions set forth in this permit affect the title and possession of the real property which is the subject of this permit and shall run with the real property or any portion thereof. All the terms, covenants, conditions, and restrictions herein imposed shall be binding upon and inure to the benefit of the owner (applicant, developer), his or her heirs, administrators, executors, successors and assigns. Upon any sale, division or lease of real property, all the conditions of this permit shall apply separately to each portion of the real property and the owner (applicant, developer) and/or possessor of any such portion shall succeed to and be bound by the obligations imposed on owner (applicant, developer) by this permit.

CASE NO:	96-135 - (CDP/ARP)	PAGE 1/6
APPLICANT/OWNER:	ROBERT & JUDITH CONROY.	
LOCATION/APN:	113 INDIO DRIVE / APN 010-205-004	

AUTHORIZATION: Subject to the conditions stated below, approval of Permit No. 96-135 grants the permittee permits to construct a seawall and erosion protection system with geogrid and helical anchors. Construction shall be consistent with plans approved by the City Council on February 18, 1997.

EFFECTIVE DATE: This permit shall become effective upon the passage of 10 days following the City Council approval, provided that an appeal has not been filed to the City Council within 10 working days. The filing of an appeal shall stay the effective date until an action is taken on the appeal.

EXPIRATION DATE: The applicant is granted two years for inauguration (i.e. building permits issued and construction begun) of this permit. The permits will expire on February 18, 1998 unless inaugurated prior to that date. Time extensions are permitted pursuant to Zoning Code Section 17.121.160(2).

STANDARD CONDITIONS, POLICIES AND SELECTED CODE REQUIREMENTS

Conditions as indicated below have been deemed to be of a substantive nature on the basis of the City Council's decision. These conditions cannot be altered without City Council approval.

Ex 2, p 3

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7A-14

CASE NO: 96-135 - (CDP/ARP)
APPLICANT/OWNER: ROBERT & JUDITH CONROY.
LOCATION/APN: 113 INDIO DRIVE / APN 010-205-004

PAGE 2/6

A) CONDITIONS SUBJECT TO COMPLIANCE PRIOR TO ISSUANCE OF A BUILDING PERMIT:

PUBLIC SERVICES DEPARTMENT/PLANNING DIVISION:

1. BUILDING PERMIT APPLICATION. To apply for building permits submit four (4) sets of construction plans ALONG WITH FOUR (4) COPIES OF THE CONDITIONS OF APPROVAL NOTING HOW EACH CONDITION HAS BEEN SATISFIED to the Building Division.
2. COMPLIANCE WITH City Council APPROVAL. Prior to the issuance of a building permit, the Project Planner shall confirm that the construction plot plan and building elevations are in compliance with the City Council's approval and conditions of approval.
 - a. The repair or replacement of the stairway is not authorized by this permit.
 - b. Revised construction drawings. Construction plans shall be revised to show conformance with the recommendations of the geologic review to show design of end wall tie-ins or 90 degree turns to minimize erosion to adjacent lots.
 - c. Incorporation of Coastal Commission comments. Based on review and comments from the Coastal Commission, the Public Works Director may require construction plans to be revised to address these comments. If major design modifications are necessary, the applicant must receive approval of the Planning Commission for a Major Modification.
3. In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall cease in the immediate area, and the find left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to the disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.

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4. Building plans must clearly delineate the location of the mean high tide.
5. Building plans shall reflect the project drainage.
6. The geologic report for the project shall be reviewed and approved by the Engineering division prior to issuance of a building permit per Section 17.078.050 of the Zoning Ordinance.
7. Building plans submitted shall be prepared and stamped by a registered civil engineer with expertise in soils.
8. Landscape plans shall be submitted and show drought resistant landscape or zero landscape. These plans shall be reviewed and approved by the City prior to the issuance of a building permit.
9. The building plans shall include a drainage plan, designed by a registered Civil Engineer and submitted to the Engineering division for review and approval prior to the issuance of the building permit.
10. An Army Corp of Engineers permit may be required. If the permit is required, it must be secured prior to issuance of the building permit. If a permit is not required, the applicant shall provide evidence from the Army Corp of Engineers that such a permit is not required.
11. Building plans shall show the location of the existing stairway. Stairway may not be replaced or remodeled consistent with the GP/LCP Policy LU-A-11 Beach Access and Bluff Protection.
12. The applicant shall comply with the General Plan/Local Coastal Plan Policy PR-22-Lateral Beach/Shoreline Access Required; a lateral public access easement in perpetuity extending from the oceanside parcel boundary to the top of the bluff shall be required and granted to the California Department of Parks & Recreation, the City of Pismo Beach, or other appropriate agency.

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APPLICANT/OWNER: ROBERT & JUDITH CONROY.
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PUBLIC SERVICES DEPARTMENT/BUILDING DIVISION:

13. The project shall comply with the most recent adopted city and state building codes.
14. Plans shall be prepared by a California licensed architect and/or engineer.
15. A soils investigation shall be required for this project.
16. A separate grading plan complying with Appendix Chapter 33, UBC, and Title 15 PBMC, shall be required.
17. Certification that the actual elevation of structures in relation to mean high sea level must be prepared by a licensed surveyor/engineer.
18. Well-established engineering principles should consider the effect of hydrostatic and hydrodynamic forces.
19. Erosion control of the site shall be clearly identified and mitigated.
20. Spaces below the base flood elevation in a coastal high hazard zone shall be free of obstructions.
21. Any new construction shall not reduce the structural integrity of existing buildings or structures.
22. Clearly dimension building setbacks and property lines, street centerlines, and between buildings or other structures on plot plan.
23. Provide a statement on the plans that all property lines and easements are shown on the plot plan.
24. The Title Sheet of the plans shall include:
 - a. Occupancy group
 - b. Description of use
 - c. Type of construction
 - d. Height of the building
 - e. Floor area of building(s)
25. Dust and erosion control shall be in conformance with standards and regulations of the City of Pismo Beach.
26. The permittee shall put into effect and maintain all precautionary measures necessary to protect adjacent water courses and public or private property from damage by erosion, flooding, deposition of mud or debris originating from the site.

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27. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability; details shall be provided.
28. Certification of compliance with the grading plans and soils report shall be submitted to the Building Division prior to final approvals.
29. A licensed surveyor/engineer shall verify pad elevations, setbacks, and roof elevations.

PUBLIC SERVICES DEPARTMENT: ENGINEERING DIVISION

30. No material is to be placed in the street unless an encroachment permit has been acquired and a guarantee bond has been posted.

B) CONDITIONS SUBJECT TO ONGOING COMPLIANCE:

1. COMPLIANCE WITH APPLICABLE LAWS. All applicable requirements of any law or agency of the State, City of Pismo Beach and any other governmental entity at the time of construction shall be met. The duty of inquiry as to such requirements shall be upon the applicant.
2. During construction, the site shall be maintained so as to not infringe on neighboring property. Soil maintenance shall be determined by the Building Official.
3. All soil removed from the face of the bluff during reconstruction shall be removed from the site.
4. Any work below the mean high tide line will require a coastal development permit from the Coastal Commission.
5. The applicant shall comply with the General Plan/Local Coastal Plan Policy PR-22-Lateral beach/shoreline access; a lateral public access easement in perpetuity extending from the oceanside parcel boundary to the top of the bluff shall be required and granted to the California Department of Parks and Recreation, the City of Pismo Beach, or other appropriate public agency.

C) MISCELLANEOUS/FEES:

1. REQUIRED FEES. The applicant shall be responsible for the payment of all applicable development and building fees.

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The property owner and the applicant (if different) shall sign these Conditions of Approval within ten (10) working days of receipt, the permit is not valid until signed by the property owner and applicant.

**I HAVE READ AND UNDERSTOOD, AND I WILL COMPLY
WITH ALL ABOVE STATED CONDITIONS OF THIS PERMIT**

Approved by the City Council on February 18, 1997

Applicant

Date

Property Owner
a:\021897\conroy.con

Date

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Path System Figure PR-2

PISMO BEACH GENERAL PLAN

KEY

PATHS IN CITY ———

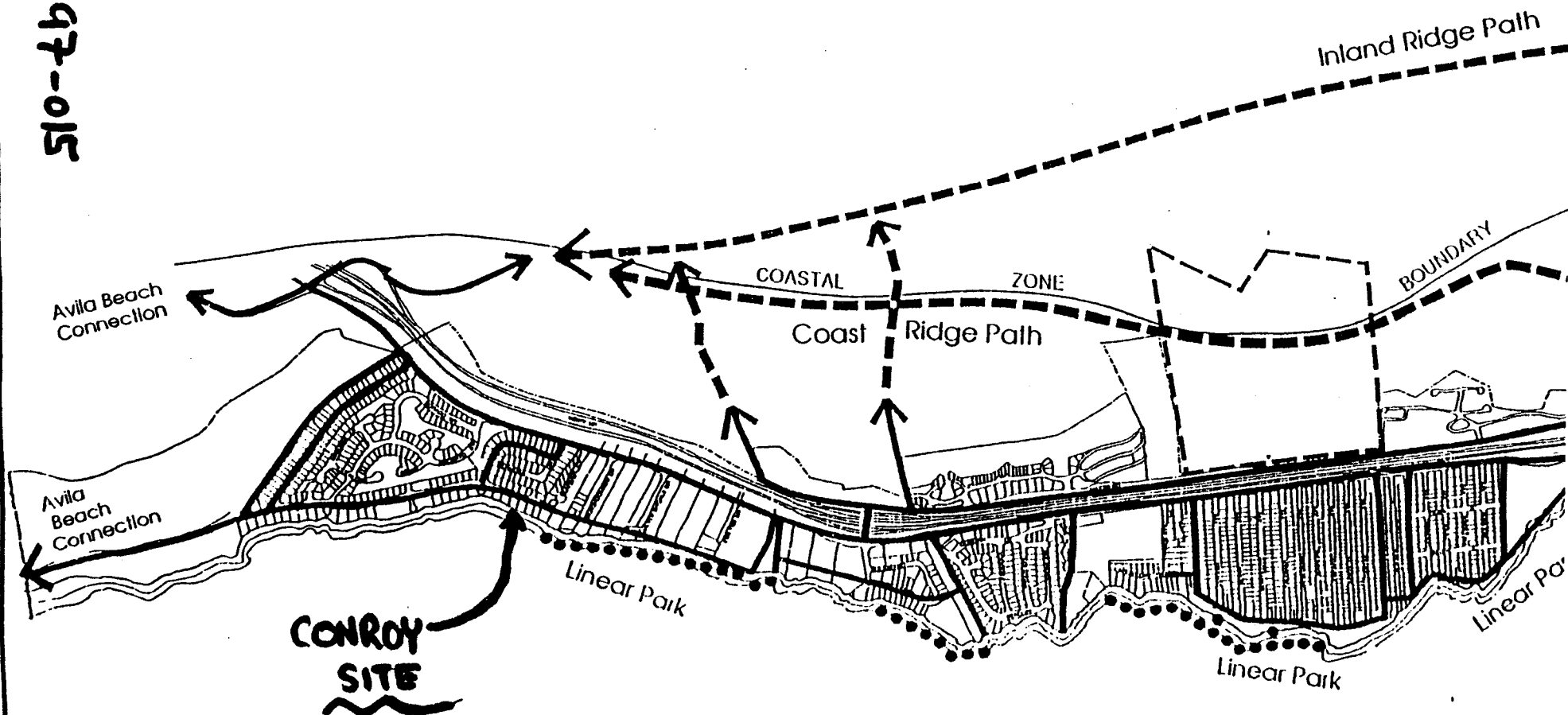
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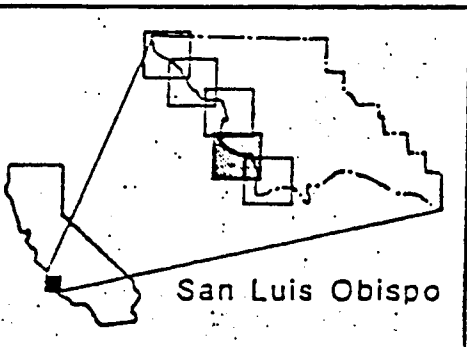
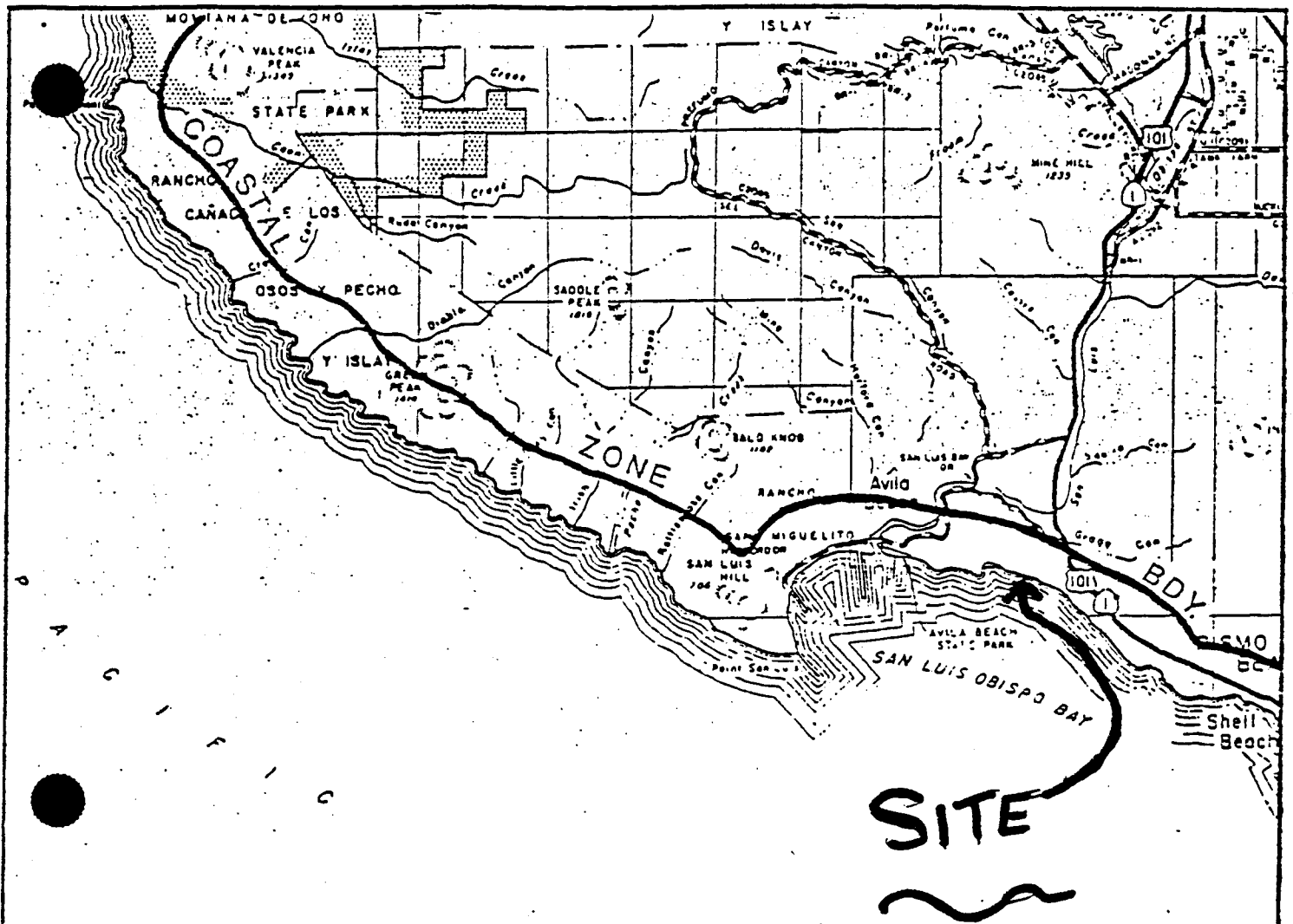
PATHS IN SPHERE - - - - -

BOARDWALK

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Ex 3





California Coastal Commission

LOCATION MAP

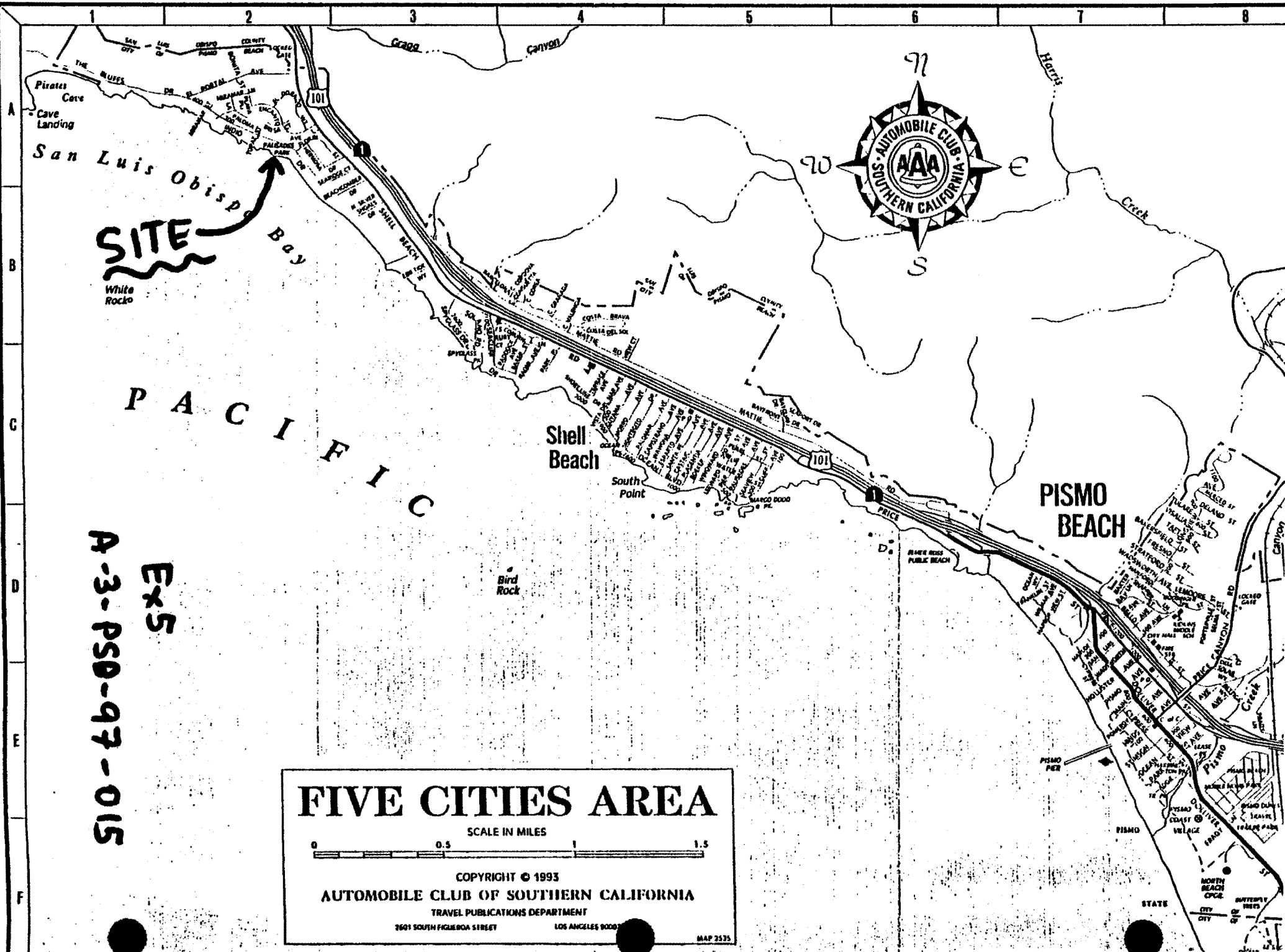


County of San Luis Obispo

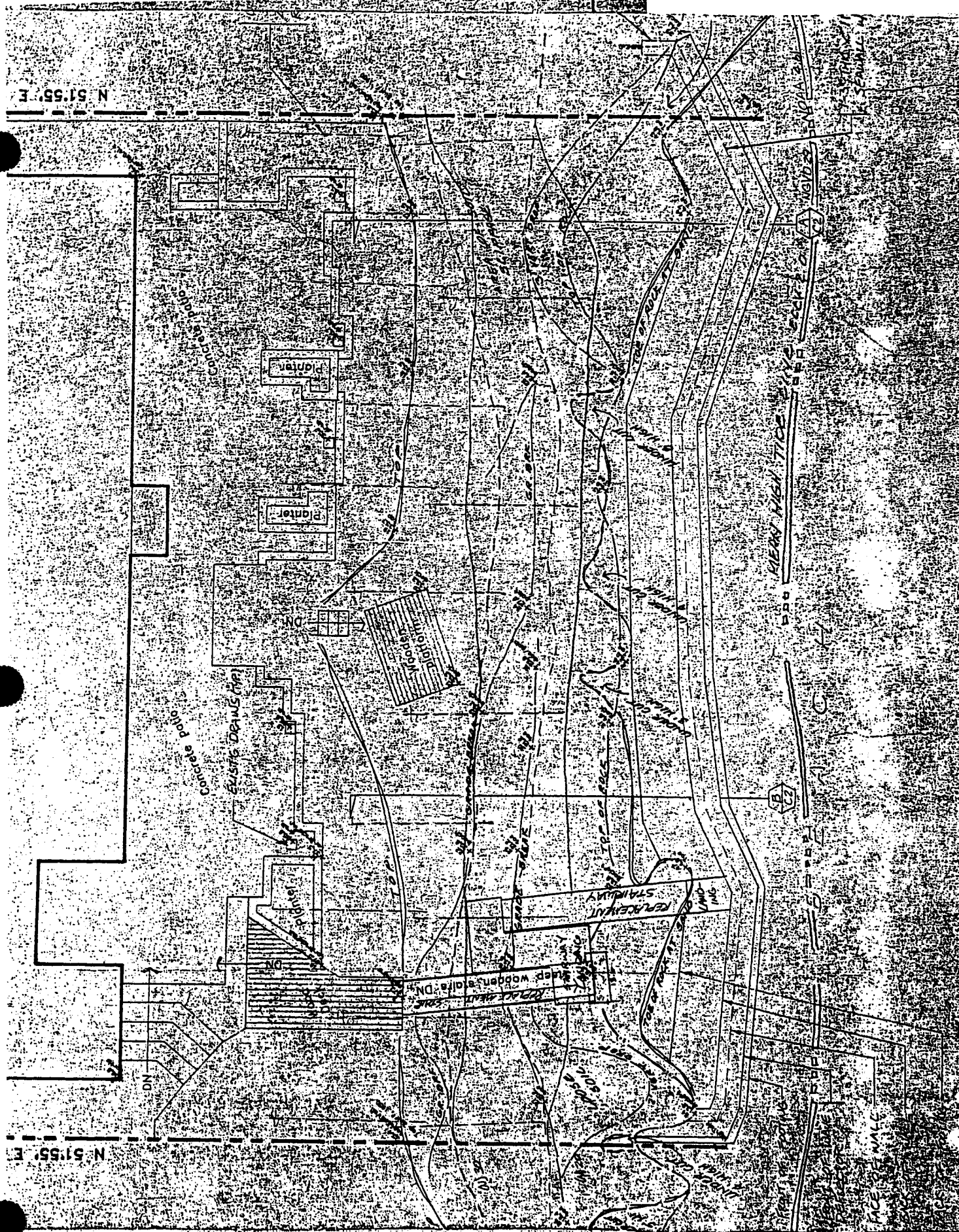
Ex 4

Sheet 4 of 5

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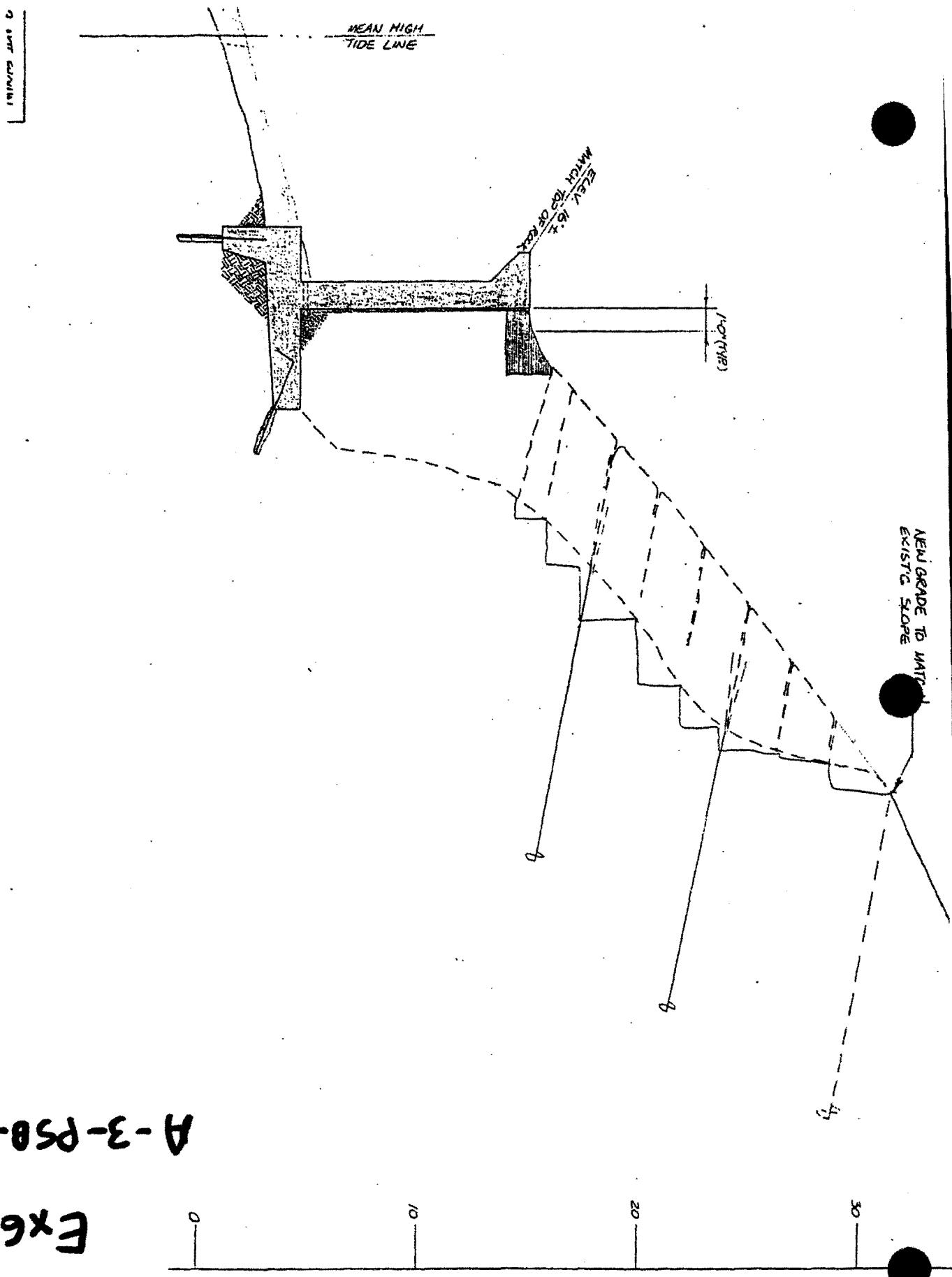


A-3-PSD-97-015
Ex 5



A-3-P50-97-015

Ex6, p3



100-32871-1000

